[The Irony of McDonald v. Chicago](http://www.mahablog.com/2010/06/28/the-irony-of-mcdonald-v-chicago/)

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http://www.mahablog.com/wp-content/themes/disciple/images/34.png[Supreme Court](http://www.mahablog.com/category/supreme-court/), [The Constitution](http://www.mahablog.com/category/the-constitution/), [firearms](http://www.mahablog.com/category/firearms/)

I defer to [Scott Lemieux’s legal analysis of *McDonald v. Chicago*](http://www.lawyersgunsmoneyblog.com/2010/06/supreme-court-second-amendment-applies-to-states), the gun rights decision handed down by SCOTUS today. I’m not going to quote it here; just read the whole thing, and then come back.

From a liberal perspective, any act of SCOTUS that dismantles the 19th century *Slaughterhouse* decision and rules that the 14th Amendment applies to the states *ain’t a bad thing*. This is the same legal principle on which most of the great civil rights decisions of the 20th century were based. I believe most if not all of the decisions that have ever caused wingnuts to scream about the awfulness of liberal judicial activism were tied somehow to the 14th Amendment forcing states to observe the rights of U.S. citizens.

*Brown v. Board of Education*, which desegregated public schools, rested on the equal protection clause of the 14th Amendment. Scott says the majority opinion in *McDonald* cites the due process clause of the 14th, which also is a critical part of *Roe v. Wade* and all of the cases that decided public schools should not be leading prayers in classrooms, such as *Abington School District v. Schempp*.

In other words, exactly the same part of the Constitution that allowed legal abortion and threw classroom prayers out of public schools has now been cited in a way that probably will overturn a whole lot of state and local gun control ordinances, and righties are dancing in the streets.

Given the [Heller](http://www.mahablog.com/2008/06/27/the-heller-decision/) decision (see also [this](http://www.mahablog.com/2008/06/27/more-on-the-heller-decision/)), I think *McDonald* is no big surprise. But while I appreciate the legal foundation of the decision the result — which will be to dismantle a lot of gun control ordinances, mostly in urban areas — worries me. And, frankly, I think it ought to worry the NRA as well.

Contrary to wingnut lore, there is not a huge public sentiment in favor of dismantling gun control laws. [According to polls](http://www.pollingreport.com/guns.htm), recent and going back a few years, the enormous majority of the public either thinks gun control laws should be left as they are now (42 percent, according to an April CBS/New York Times poll), or made more strict (40 percent, same poll). So, per this poll, 82 percent of the public thinks gun control laws should be left as they are or made stricter, compared to 16 percent who want gun laws to be less strict. An October Gallup poll had nearly the same result.

It’s true that when the poll questions are framed in terms of gun rights rather than gun control, the numbers are somewhat more favorable to the NRA position. But I think this is the result of people reacting to the word “rights” — we’re always in favor of “rights” — without thinking through logical consequences. In other words, there are people who favor gun rights in the abstract, but they also want gun control in their neighborhoods.

And it is possible that if the NRA gets too aggressive about dismantling gun control laws, especially in large urban areas, the day may come when people start to think long and hard about amending the Second Amendment. That may be many years down the road, and I may not live to see it, but I think it could happen.

**Update:** [Steve M on why the gun control war will never be over](http://nomoremister.blogspot.com/2010/06/victory-is-not-option-adam-serwer-on.html). And it isn’t because the gun control movement won’t quit. The gun control movement pretty much faded out of view several years ago, except in the fevered hallucinations of the NRA.

And that’s not just because they won’t consider America to be anything less than a fascist dictatorship until it’s as easy for virtually anyone to buy a gun in D.C., Chicago, or New York City as it is in, say, rural Mississippi. Even if the day comes when we have gun laws everywhere that are as loose as the loosest ones now (and I think that’s far more likely over the next couple of decades than ever passing any laws anywhere that actually tighten gun access), the gunners still won’t admit they’ve won.

They can’t. As I say here all the time, the belief that right-wingers are the perpetual victims of liberal fascism is a core element of their self-image. What’s more, believing this is what opens up wingers’ wallets and keeps groups like the NRA and Gun Owners of America — as well as every other right-wing organization that seeks small contributions — well funded and healthy.